

EMPLOYMENT AGREEMENT

THIS AGREEMENT (this “Agreement”) is made and entered into as of the ____ day of October, 2019 between the City of Delray Beach, Florida (the “City”) and George Gretsas (hereinafter referred to as the “Employee”), pursuant to the following terms and conditions:

WHEREAS, the City desires to employ the services of Gretsas as City Manager and Gretsas wishes to accept this employment under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants contained herein, the City and the Employee agree to the following:

SECTION 1. DUTIES

The City agrees to employ the services of Employee as City Manager, to perform the duties and exercise the powers as provided by State law, the City Charter and the City Code, and to perform such other legally permissible and proper duties and functions as assigned by the City Commission from time to time.

SECTION 2. TERM

2.1 This Agreement shall have a term commencing on January XX, 2020 (“Effective Date”). Employee shall serve at the pleasure of the City Commission.

2.2 Nothing in this Agreement shall prevent, limit, or otherwise interfere with the right of the City Commission to terminate the services of Employee at any time during a regular or special City Commission meeting, subject only to the provisions set forth in Section 3 of this Agreement.

SECTION 3. TERMINATION OF AGREEMENT

3.1 In accordance with the Charter, Employee shall serve at the pleasure of the City Commission. Employee may be removed by the affirmative vote of no less than three (3) Commissioners, but such removal shall not take place within 90 days after any election at which any Commissioner is elected to office. If the Commission wishes to remove the Employee, it shall provide Employee with written notice of its intention to remove him, which specifies whether the Commission wishes to remove the Employee pursuant to Section 3.2 or Section 3.3 of this Agreement (the “Preliminary Notice”). Employee shall then have five business days from his receipt of the Preliminary Notice (the “Waiver Deadline”) to submit in writing to the City Clerk either: (i) a demand (the “Demand”) for written charges (the “Written Charges”) and a public hearing before the City Commission (the “Public Hearing”); or (ii) a waiver of his right to Written Charges and a Public Hearing (the “Waiver Notice”). A failure by Employee to respond to the Preliminary Notice by the Waiver Deadline shall be treated as a Waiver Notice. At any time between issuance of the Preliminary Notice and the Employee’s final termination as set forth below, the Commission may suspend the Employee from office with pay.

(a) If the Commission votes to remove the Employee pursuant to Section 3.2 of this Agreement and the Employee makes the Demand, the City shall provide the Written Charges to the Employee. After delivery of the Written Charges, the Public Hearing shall be set to address the Written Charges, which Public Hearing shall be set at a time not less than 60 days after delivery of the Written Charges. The Employee's final removal and termination shall not take effect until the Public Hearing has been properly noticed and held or until the 60th day following the City's receipt of the Waiver Notice as applicable.

(b) If the Commission votes to remove the Employee pursuant to Section 3.3 (misconduct as defined by Florida Statute) of this Agreement and the Employee makes the Demand, the City shall undertake an investigation concerning the Employee's alleged misconduct, during which the Employee shall be provided with an opportunity to meet with the City's investigator and provide his position concerning the Commission's alleged bases for terminating his employment pursuant to Section 3.3. Based on the City's investigation, the City shall prepare the Written Charges, which shall be adopted by the Commission and presented to the Employee at a Special Meeting that shall be set at a time not less than 60 days after delivery of the Preliminary Notice. After the Commission adopts the Written Charges and presents them to the Employee, the Public Hearing shall be set at a time not less than 60 days after the Commission's adoption of the Written Charges. The Employee's final removal and termination shall not take effect until the Public Hearing has been properly noticed and held or until the 120th day following the City's receipt of the Waiver Notice as applicable.

3.2 In the event the City Commission wishes to terminate Employee without cause, Employee shall receive a lump sum severance pay equal to 20 weeks of his regular base salary at the time of termination. Severance pay also includes the following for the applicable period of twenty weeks: automobile allowance, cellular telephone allowance, health insurance premium, or any other benefit or reimbursement (except that specifically set forth in this paragraph) beyond the date of his termination. All severance payments shall be paid to Employee in a lump sum upon his termination or within thirty (30) days thereafter at the City Commission's option.

3.3 Notwithstanding the provisions of Section 3.2, in the event Employee is terminated for misconduct, as defined in Section 443.036(29), Florida Statutes, the City shall have no obligation to pay Employee any severance pay. Misconduct includes, but is not limited to: (i) breach of any material term or condition of this Agreement; (ii) conviction of a felony; (iii) gross insubordination; (iv) willful neglect of duty; or (v) adjudicated violation of the Florida Code of Ethics for Public Officers and Employees, the Palm Beach County Code of Ethics, the City Charter, or the City's Conflict of Interest Ordinance.

3.4 The severance payment shall constitute stipulated and liquidated damages and the maximum amount of financial liability for which the City may be liable in the event of termination or breach of contract.

3.5 In the event that Employee voluntarily resigns or retires during the term of this Agreement, Employee shall provide the City with 90 days' advance written notice, unless the parties agree in writing to a different period of time. In the event of resignation by Employee under this Section, Employee shall not be entitled to receive the severance package specified in

Section 3.2, but the City shall pay Employee for any accrued unused vacation and sick leave (if applicable) calculated at Employee's rate of pay in effect upon the date of resignation in accordance with City policy for non-union civilian employees.

3.6 In the event that Employee voluntarily resigns with less than 90 days' advance written notice, the City Commission may elect to terminate Employee immediately or allow Employee to continue to serve until the date specified in Employee's resignation. In the event of a resignation or termination under this paragraph, notwithstanding any other provisions of this Section, Employee shall not be entitled to receive either severance payment or vacation or sick leave unless the City Commission authorizes payment of same.

3.7 If Employee is unable to perform his duties as specified in Section 1 of this Agreement for a period of 30 consecutive days or 60 non-consecutive days during any one-year period for any reason other than an approved Family Medical Leave Act ("FMLA") absence, the City Commission may terminate this Agreement. If Employee takes FMLA-approved leave and exhausts his statutorily-protected, FMLA-approved leave in any one-year period, the City Commission may terminate this Agreement. In the event of the Employee's death, this Agreement shall be terminated. If this Agreement is terminated under this Section, Employee shall not be entitled to severance pay pursuant to Section 3.2 of this Agreement.

3.8 Unless otherwise specified in this Agreement, or required by law, upon termination of this Agreement, Employee or his beneficiary shall be entitled to receive payment of any accrued or unused sick or vacation leave in accordance with the terms of this Agreement, as may be amended from time to time.

SECTION 4. COMPENSATION

4.1 The annual salary of Employee shall be \$265,000.00 per year, which shall be payable in installments at the same time as other employees of the City are paid. The City and Employee mutually agree that there shall be no salary adjustments for a term of two years following the effective date of the Agreement.

4.2 The City Commission shall evaluate the performance of the Employee annually. Any enhancement in said annual salary and/or benefits shall be at the City Commission's sole discretion. In no event shall the City Commission exercise its discretion under this Section to reduce Employee's salary and/or benefits.

SECTION 5. HOURS OF WORK

The Employee agrees to remain in the exclusive employ of the City and shall not accept any other employment. The Employee further agrees to devote that amount of time and energy which is reasonably necessary for the Employee to faithfully perform his duties and responsibilities under this Agreement.

SECTION 6. AUTOMOBILE ALLOWANCE PROVIDED

The Employee's job duties and responsibilities require that he has the exclusive and unrestricted use of an automobile at all times during his employment with the City. As such and in lieu of mileage reimbursement for use of Employee's personal vehicle for City business, the City shall provide to the Employee a motor vehicle allowance of \$750.00 per month. This allowance is intended to reimburse Employee for all automobile expenses, including, but not limited to, lease or financing payments, accelerated depreciation, maintenance, parts, labor, tires, fuel, oil, insurance, and any other payments related thereto. The Employee shall be responsible for any employee payroll taxes imposed upon this vehicle allowance benefit in accordance with applicable law.

SECTION 7. RETIREMENT/DEFERRED COMPENSATION

At Employee's direction, the City shall make contributions on Employee's behalf, totaling 18% of Employee's base salary, into a 401a retirement and/or a 457 deferred compensation plan of Employee's choosing. The Employee will not be required to make a contribution to either plan. Regardless of any selection Employee makes between a 401(a) or a 457 deferred compensation plan, the total contribution made by the City will not exceed 18% of Employee's base salary.

SECTION 8. INSURANCE

8.1 In lieu of providing Employee with full family (i.e., wife and children) health insurance coverage at the City's expense, the City agrees to reimburse Employee for the cost of the health insurance coverage that he purchases from the City of White Plains, New York, payable in monthly installments in the amount of \$2,100.00.

8.2 The City agrees to provide Employee with a term life insurance policy (the "Life Insurance Policy") in an amount equal to two times Employee's Initial Salary with a minimum term of 30 years. The Life Insurance Policy shall provide that, upon the termination of Employee's City employment, ownership of the Life Insurance Policy may be transferred to Employee, provided Employee pays the premiums for such Policy accruing after the termination of his City employment. The Employee shall be responsible for all applicable taxes associated with the Life Insurance Policy in accordance with applicable law.

8.3 The City shall provide Employee with a long term disability policy as provided to other non-union civilian employees of the City at no cost to Employee.

SECTION 9. VACATION, SICK LEAVE, AND HOLIDAYS

9.1 Employee shall automatically accrue and be credited with thirty (30) business days of annual leave per calendar-year on the Effective Date of his employment and annually thereafter. There shall be no cap on the maximum number of days of annual leave Employee may accrue.

9.2 Prior to such leave, Employee shall notify the Commission of who the Acting City Manager will be during that leave and how Employee may be reached while on leave in case of an emergency.

9.3 Employee shall automatically accrue and be credited with fifteen (15) business days of sick leave per calendar-year on the Effective Date of his employment and annually thereafter. There shall be no cap on the maximum number of days of sick leave Employee may accrue.

9.4 Employee shall be entitled to holidays in the same manner as other general employees of the City.

SECTION 10. PROFESSIONAL DEVELOPMENT

10.1 Subject to City policy and state law, the City agrees to pay the reasonable professional dues and subscriptions of the Employee necessary for his continuation and participation as a member in national, regional, state and local professional associations and organizations necessary and desirable for his continued professional participation, growth and advancement, and for the good of the City.

10.2 Subject to City policy and state law, the City agrees to pay the applicable travel and subsistence expenses of the Employee for travel to local, state and national conferences, short courses, institutes and seminars, as permitted by the annual budget.

10.3 The City shall pay the Employee's membership for professional organizations, including:

- (a) Membership in Florida Community/City Manager's Association;
- (b) Membership in ICMA; and
- (c) Membership in other entities as approved by the City Commission, with each membership being subject to annual City budget requirements.

SECTION 11. INDEMNIFICATION

11.1 The City shall defend, hold harmless and indemnify Employee against any tort, professional liability claim or demand or other legal action, whether groundless or otherwise, arising out of an alleged act or omission occurring in the course and scope of Employee's performance of his duties as City Manager or resulting from the reasonable exercise of judgment or discretion in connection with the performance of his City duties or responsibilities, unless the act or omission involved willful or wanton conduct. The City's indemnification of Employee under this paragraph shall extend to any and all losses, damages, judgments, interest, settlements, fines, court costs and other reasonable costs and expenses of legal proceedings, including attorneys fees and any other liabilities incurred by, imposed upon, or suffered by Employee in connection with or resulting from any claim, action, suit, or proceeding, actual or threatened, arising out of or in connection with the course and scope of performance of his duties.

11.2 Employee may request, and the City shall not unreasonably refuse to provide, independent legal representation at the City's expense if there is a conflict of interest between Employee's interests and the City's interests. Legal representation provided by the City for Employee shall extend until a final determination of the legal action, including any appeals brought by either party.

This paragraph shall not apply to litigation between the parties to this Agreement concerning an alleged breach of this Agreement.

11.3 Any settlement of any claim must be made with prior approval of the City Commission in order for indemnification, as provided in this Section, to be available. Employee recognizes that the City shall have the right to compromise such claims against it or against Employee in his official capacity, in its sole discretion, provided that the City notifies the Employee of its intention to compromise such claims prior to entering into such a compromise.

SECTION 12. CELLULAR PHONE

The City shall provide to the Employee a smart phone device with full phone and e-mail capabilities (the "Smart Phone"). The City shall be solely responsible for the cost of the Smart Phone and all monthly charges associated with Employee's regular business use of the Smart Phone.

SECTION 13. NOTICE

Notices pursuant to this Agreement shall be given by certified mail, return receipt requested, through United States Postal Service delivery, addressed as follows:

City :

Mayor
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

Employee:

George Gretsas
XXX
XXX

With a copy:

City Attorney
City of Delray Beach
200 N.W. 1st Avenue
Delray Beach, FL 33444

SECTION 14. WAIVER OF JURY TRIAL

BOTH THE CITY AND EMPLOYEE KNOWINGLY, VOLUNTARILY, AND IRREVOCABLY WAIVE THEIR RIGHT TO A TRIAL BY JURY IN ANY CIVIL PROCEEDINGS THAT MAY BE INITIATED BY EITHER PARTY WITH RESPECT TO ANY TERM OR CONDITION OF THIS AGREEMENT.

SECTION 15. OTHER TERMS AND CONDITIONS

15.1 If any provision, or any portion thereof contained in this Agreement is held to be unconstitutional, illegal, invalid, or unenforceable, the remainder of this Agreement, or portion thereof, shall not be affected and shall remain in full force and effect.

15.2 The waiver by either party of a breach of any provision of this Agreement by the other shall not operate or be construed as a waiver of any subsequent breach by that party.

15.3 This Agreement contains the entire agreement of the parties. It may not be changed orally, but only by an amendment in writing signed by the parties hereto.

15.4 This Agreement shall be governed by Florida law, and any litigation which may arise from this Agreement shall be filed and litigated in Palm Beach County, Florida.

15.5 Any calculations or computations required herein shall be made by the City Finance Director, subject to verification by the City Attorney.

15.6 On any matter which is not covered or addressed by this Agreement, the general City personnel policies, as amended from time to time, and is applicable, shall be applied herein by the City Commission.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City, by signature of the Mayor as authorized by the City Commission, has executed this Agreement the day and year first above written.

CITY OF DELRAY BEACH

By: _____
Shelly Petrolia, Mayor

ATTEST:

Katerri Johnson, City Clerk

APPROVED AS TO FORM AND LEGAL SUFFICIENCY

Lynn Gelin, City Attorney

CITY MANAGER

George Gretasas